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FISCAL IMPACT STATEMENT

LS 6641

BILL NUMBER: SB 326

NOTE PREPARED: Jan 29, 2015

BILL AMENDED: Jan 27, 2015

SUBJECT: State Board of Accounts Examinations.

FIRST AUTHOR: Sen. Head

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

Risk-Based Examination: It permits the State Board of Accounts (SBOA) to determine the frequency with which the SBOA conducts financial examinations based on risk based criteria approved by the Audit and Financial Reporting Subcommittee of the Legislative Council.

Notice of Examination: The bill specifies that certain examinations by the SBOA may (rather than must, under current law) be made without notice.

Confidentiality: This bill indicates that the results of an examination of the SBOA are confidential until approved and released for publication by the State Examiner. However, it permits disclosure under certain circumstances.

The bill provides that the SBOA may only release examination workpapers and investigation records to certain persons, and then only if the recipient enters into an agreement with the SBOA specifying that the records will be kept confidential and used solely for official purposes.

Forms: The bill eliminates the State Examiner's requirement to annually furnish forms and instructions to reporting officers.

Fraud Hotline: The bill provides that an executive or a fiscal officer of a unit may establish a fraud hotline telephone number that the public may use to report suspected fraudulent activity concerning officers or employees of the unit.

It provides that: (1) the identity of a caller to a fraud hotline; and (2) a report, transcript, audio recording, or other information obtained from a fraud hotline; are exempt from public disclosure.

Prepaid Wireless: The bill provides that an audit of an enhanced prepaid wireless seller regarding collection and remittance of enhanced prepaid wireless charges must be conducted either: (1) jointly by the Department of Revenue and the Statewide 911 Board; or (2) by an independent auditor engaged by the Statewide 911 Board. (Under current law, the audit must be conducted jointly by the Department of Revenue and the Statewide 911 Board.)

Effective Date: July 1, 2015.

Summary of NET State Impact: (Revised) The bill is expected to have minimal increased cost for developing an audit schedule based on risk-based criteria rather than statutorily enacted time intervals. The SBOA could have some minimal cost savings from being able to plan examinations rather than having to perform examinations without notice.

If the Statewide 911 Board were to engage an independent auditor, costs of audit could increase. Any increase in cost would depend on the actions of the Statewide 911 Board.

The Class A infraction concerning communication of knowledge of confidential results would provide additional revenue to the state General Fund and some dedicated funds if infraction judgements are ordered.

Explanation of State Expenditures: *Risk-Based Examination:* The bill may allow the SBOA to manage its workload by allowing the SBOA to set an audit schedule based on risk-based criteria and by removing statutory time requirements for audit. The process may minimally increase the workload for the SBOA to prepare, maintain, and apply risk-based criteria and receive approval from the Audit and Financial Reporting Subcommittee of the Legislative Council. The application of risk-based criteria to the SBOA's audit schedule is expected to have minimal fiscal impact on the SBOA's resource needs.

Additional Information -

(Revised) *Risk-Based Examination:* Under state law, the SBOA is responsible for audit of the state, local units, school corporations, and quasi-governmental entities. Entities receiving federal awards with over \$500,000 in expenditures must be audited on an annual basis. However, Indiana is allowed to perform biennial audits of federal award recipients because state laws in place on January 1, 1987 require less frequent audits.

The SBOA, in its enabling statute, is required to annually audit the state, cities, counties, towns with a population greater than 5,000, and public hospitals, and biennially audit other municipalities and entities. Additionally, many state statutes enabling state and local entities require audits at certain intervals or on specific dates. The bill would remove the specific times for many audits, while maintaining the annual audit of state government and the exemption from annual audits for federal award recipients. Under the bill the SBOA would be allowed to develop its audit schedule using risk-based criteria, with a requirement that every entity is audited at least every four years.

The SBOA receives \$45 per day per field examiner from taxing units and full costs from nontaxing units.

The estimated cost to the SBOA per day per field examiner is \$640. The SBOA issued about 1,586 audits and examinations in 2013.

Risk-Based Criteria: Generally Accepted Government Auditing Standards (GAGAS) require risk-based auditing to provide a high-level of assurance to the financial statement user and to discover material misstatements due to fraud or error. To apply risk-based criteria for auditing, the auditor must understand the audit entity and its internal controls to assess the risk of material misstatement in the entity's financial statements.

(Revised) *Forms:* The SBOA currently prescribes forms that units purchase from independent vendors, rather than the SBOA. This provision will allow statute to conform to practice.

Explanation of State Revenues: *Communicating Knowledge of Confidential Results:* A public agency, employee, or official, or the employee or officer of a contractor or subcontractor who knowingly or intentionally communicates knowledge of the confidential results of an examination, except in certain circumstances, commits a Class A infraction. If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class A infraction is \$10,000, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, revenue from the automated record keeping fee (\$5) is deposited into the state user fee fund, and the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: *Risk-Based Examination:* Local units that are examined less frequently will have reduced examination costs. Any reduction would depend on the rules adopted by the SBOA and the internal controls of the entity. An entity that needs an audit prior to the audit performed by the SBOA may incur additional costs for an independent auditor's review.

(Revised) *Fraud Hotline:* In addition to the cost of establishing a fraud hotline, which is minimal, a local unit establishing a hotline will have increased costs to investigate the information acquired. The additional investigation costs will depend on the information received.

(Revised) *Prosecutor:* To the extent that the SBOA's current process is to work with prosecutors on criminal matters involving local officials, no change is expected. [Current law requires the State Examiner to report to the grand jury, but these are no longer convened.]

Additional Information - Prosecutor: The SBOA certified 66 audit reports to the Attorney General's office for collection of \$2,954,332 for the period July 1, 2012 to June 30, 2014 and issued an additional 23 reports during the same period that returned \$254,461 to governmental units for funds that were misspent or stolen by individuals.

Explanation of Local Revenues: *Communicating Knowledge of Confidential Results:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance

violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Persons found guilty of an infraction are also required to pay the following fees that are deposited in local funds: the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

State Agencies Affected: SBOA.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: A133 Circular; State Examiner testimony to the State Audit Committee, August 18, 2014, telephone conversation with Paul Joyce, State Examiner, on October 30, 2014. <https://www.comptroller.tn.gov/audit/AuditManual2011/APPENDIXB%20Fraud%20Risk.pdf>, SBOA Budget Transmittal Letter to Brian Bailey, presented to the Budget Committee on November 20, 2014,

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